

REMARKS

Upon entry of the present amendment, claims 8-9, 12-13 and 16-31 will remain pending in the application with claims 24-31 being withdrawn from consideration and claims 8-9, 12-13 and 16-23 standing ready for further action on the merits.

The amendments made herein to the claims do not incorporate new matter into the application as originally filed. In this respect, claims 12 and 13 have each been amended to clarify that T represents "nitrogen atom".

***Claim Objections***

Claims 12-13 have been objected to under 37 CFR § 1.75(c), as being of improper dependent form. Reconsideration and withdrawal of the claim objection is requested based upon the amendment of each of claims 12-13 herein to recite that the component "T" is a "nitrogen atom".

***Claim Rejections Under 35 USC § 102***

Claims 8-9 and 12-13 have been rejected under 35 USC § 102(b) as being anticipated by EP 0 683 184 A1. Reconsideration and withdrawal of this rejection is requested based upon the following considerations.

The Examiner stated on page 3, lines 3 to 8 of the Office Action, "An additional catalyst component is disclosed on page 25 ... provided R1 and R2 are hydrogen."

But, the additional component is represented by the formula (XV) or (XVI) (see page 25, lines 10 to 15 of EP 0 683 184 A1), and includes a very large group of compounds as defined on page 25, line 16 to page 26, line 2. Further, most of specific examples thereof are borates, and among these, tetraphenylporphyriniron chloride tetrakis(pentafluorophenyl)borate and tetraphenylporphyrinzinc chloride tetrakis(pentafluorophenyl)borate (see page 26, lines 49-50 of EP 0 683 184 A1) might be considered to be relatively close to the compound (A) specified in the instant claims 8 and 9.

However, these two specifically noted porphyrin compounds are outside the specified range of "0.008 atomic unit (Hartree) or less" recited in the instant claims 8 and 9. In support of this contention, the applicants submit herewith a 37 CFR § 1.132 Declaration of Mr. Kuribayashi, one of the present inventors, which clarifies that these two compounds are indeed outside the scope of the instant claims.

Namely, as apparent from the enclosed "Kuribayashi" 37 CFR § 1.132 declaration, the lowest energy level of unoccupied molecular orbital having the valence p-type atomic orbital of these compounds

are 0.05875 and 0.06394, respectively; in other words, both of them are larger than 0.008.

Therefore, EP 0 638 184 A1 is silent regarding the compound (A) in each of the pending claims 8-9 and 12-13 and is incapable of anticipating the same under 35 USC § 102(b).

***Claim Rejections Under 35 USC § 103***

Claims 16-23 are rejected under 35 USC § 103(a) as being unpatentable over EP 0 683 184 A1 as applied to claims 8-9 and 12-13, and further in view of Manassen et al. (Journal of Catalysts, Vol. 33, pp. 133-137 (1974)). Reconsideration and withdrawal of this rejection is requested based upon the following considerations.

EP 0 638 184 A1 fails to disclose the use of the compound (A) in the instant claims as mentioned above.

Manassen et al. discloses tetraphenylporphyrin and phthalocyanine complexes substituted with a fluorine atom.

However, (1) these complexes in Manassen et al. are used alone as a catalyst for oxidation of cyclohexadiene. Further, (2) Manassen et al. fails to teach or suggest any combination of the complex and a transition metal compound as (B) compound in the instant claims as a catalyst for polymerization of a monomer, particularly an olefin.

Furthermore, (3) it is well known that polymerization of an olefin is conducted in an inert gas atmosphere such as nitrogen or argon because the catalyst is de-activated by oxygen, water or the like. In the Examples of EP 0 638 184 A1, a reactor (container) that is used for polymerization or preparation of a catalyst, is previously purged with an inert gas (argon or nitrogen).

On the other hand, (4) an oxidation catalyst is necessarily used in the presence of oxygen or an oxidation agent. Therefore, (5) it follows that the polymerization reaction in EP 0 638 184 A1 is completely different from the oxidation reaction in Manassen et al. in its reaction mechanism.

Accordingly, from reasons (1) to (5) described above, it is clear that there is no motivation provided in the cited art for substituting the porphyrin or phthalocyanine used in EP 0 638 184 A1 with fluorine atoms.

In conclusion, the claimed invention can not be rejected under 35 USC § 103(a) as being obvious over EP 0 638 184 A1 in view of Manassen et al., since even upon combining the disclosures of the cited art, there is no motivation provided to those of ordinary skill in the art that would allow them to arrive at the instant invention being claimed.

CONCLUSION

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that the claims under current consideration (claims 8-9, 12-13 and 16-23) are allowed and patentable under the provisions of Title 35 of the United States Code. In support of this contention, Applicants point to the amendments made herein, the remarks presented above, and the accompanying 37 CFR § 1.132 Declaration of Mr. Hiroshi Kuribayashi, which has been submitted herewith in support of the patentability of the present claims.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Appl. No. 09/739,802

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment: 37 CFR § 1.132 Declaration of Mr. Hiroshi Kuribayashi